

DEC 10 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

MELVIN PHILLIPS,

Plaintiff - Appellant,

v.

COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

Defendant - Appellee.

No. 02-16921

D.C. No. CV-01-01898-LKK

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence K. Karlton, Senior Judge, Presiding

Submitted December 3, 2003**
San Francisco, California

Before: SCHROEDER, Chief Judge, D.W. NELSON, and RYMER, Circuit
Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Melvin Phillips appeals the district court's summary judgment in favor of the Commissioner of the Social Security Administration. Because Phillips engaged in substantial gainful activity for several years prior to applying for child disability insurance benefits, he was not continuously disabled since age 22 and accordingly is not entitled to benefits. *See Smolen v. Chater*, 80 F.3d 1273, 1280 (9th Cir. 1996). The decision of the district court is

AFFIRMED.